Some courts even say that this omission is not reversible error. *Warner* v. *State*, 56 N. J. L. 686. But where the question is required by statute, the judgment cannot be regular unless that requirement is fulfilled. *People* v. *Walker*, 132 Cal. 137.

CRIMINAL LAW — SENTENCE — EFFECT OF UNAUTHORIZED POSTPONEMENT OF PUNISHMENT. — A sentence of fine and imprisonment was pronounced, with the proviso that if the fines were paid, the imprisonment would be suspended during good behavior. The defendants were released, on payment of the fines. After the term of commitment ordinarily would have expired, they were retaken. *Held*, that the sentence should now be enforced. *State* v. *Abbott*, 70 S. E. 6 (S. C.).

Some courts hold that such a sentence runs from the time it was pronounced, though the defendant has not been imprisoned. *In re Webb*, 89 Wis. 354. Others say that an indefinite postponement of sentence forfeits jurisdiction of the cause. *People ex rel. Boenert* v. *Barrett*, 202 Ill. 287. The view of the principal case, however, seems the sound one, and represents the weight of authority. *Neal* v. *State*, 104 Ga. 509; *State* v. *Cockerham*, 24 N. C. 204. If the sentence is not actually served because the prisoner escapes, he may be reimprisoned after the term would have expired. *Dolan's Case*, 101 Mass. 219. The same is true if the sheriff wrongfully delays punishment. *Miller* v. *Evans*, 115 Ia. 101. That the judge is the one at fault should not alter the case. *Ex parte Collins*, 6 Cal. App. 803.

CROPS — RIGHT TO MATURED BUT UNSEVERED CROP AT TERMINATION OF LEASE. — The defendant gave the plaintiff a lease for one year of some land upon which the plaintiff raised a cotton crop. At the end of the term, part of the crop stood matured, but unpicked in the field. This the plaintiff picked, but the defendant held it as his own. The plaintiff brought replevin. *Held*, that he may recover. *Opperman* v. *Littlejohn*, 54 So. 77 (Miss.).

A tenant for an uncertain time may return after the end of his term to gather the crops, sown during the continuance of his lease. See *Brown* v. *Thurston*, 56 Me. 126. Usually, however, a tenant for a fixed term has no right to harvest crops after his term has expired. *Sanders* v. *Ellington*, 77 N. C. 255. In some states custom is allowed to change this and give the tenant the right to take the "waygoing" crop. *Van Doren* v. *Everitt*, 5 N. J. L. *460. But a case in Virginia expressly decides that, as there can be no immemorial customs in this country, the common law cannot be altered in this respect by the custom of the district. *Harris* v. *Carson*, 7 Leigh (Va.) 632. A few jurisdictions regard matured crops, though still uncut, as personalty. *Hecht* v. *Dettman*, 56 Ia. 679. *Contra*, *Tripp* v. *Hasceig*, 20 Mich. 254. See TIFFANY, LANDLORD & TENANT, 1644. And it has been held that even a tenant for a fixed term may return within a reasonable time after the end of his lease to remove his personalty. *Smith* v. *Boyle*, 66 Neb. 823. See TIFFANY, LANDLORD & TENANT, 1672. It would seem, therefore, that there is some authority to support the decision in the principal case. *Cf. Meffert* v. *Dyer*, 107 Mo. App. 462.

DAMAGES — CONSEQUENTIAL DAMAGES — LOSS OF OPPORTUNITY TO COMPETE FOR EMPLOYMENT. — The defendant contracted to choose, from fifty women who should be selected by the readers of a newspaper, twelve to be members of his theatrical company. He failed to give notice to the plaintiff, who was one of the fifty, so that she might present herself for the final selection. *Held*, that the plaintiff's recovery is not limited to nominal damages. *Chaplin* v. *Hicks*, 27 T. L. Rep. 244 (Eng., K. B. Div., Feb. 8, 1911).

The rule requiring that damages be certain usually defeats recovery for loss of a mere chance of gain. *Johnson* v. *Western Union Tel. Co.*, 79 Miss. 58.

Thus a plaintiff prevented from applying for employment is not allowed to recover damages for loss of that opportunity. *Brown* v. *Cummings*, 7 Allen (Mass.) 507. The chance of promotion cannot be considered. *Richmond & Danville R. Co.* v. *Elliott*, 149 U. S. 266. The estimated winnings of a race horse are no element of damages. *Western Union Tel. Co.* v. *Crall*, 39 Kan. 580. The loss of a possible contract is too uncertain to be matter for compensation. *Beatty Lumber Co.* v. *Western Union Tel. Co.*, 52 W. Va. 410. The English cases, however, are more liberal in allowing recovery for uncertain damage. *Jacques* v. *Millar*, 6 Ch. D. 153; *Simpson* v. *London & North Western Ry. Co.*, 1 Q. B. D. 274. Recovery is denied in the American cases not because of remoteness; for the loss of opportunity to compete is an immediate consequence of the breach, reasonably within the contemplation of the parties when the contract was made. See *Adams Express Co.* v. *Egbert*, 36 Pa. St. 360. But see MAYNE, DAMAGES, 7 ed., 63. Nor is mere difficulty of ascertaining the amount, if damages certainly have accrued, a bar to recovery. *Wakeham* v. *Wheeler & Wilson Mfg. Co.*, 101 N. Y. 205. But the plaintiff seeking substantial damages must show that he has actually been damaged. This burden he does not sustain by showing that he may have been damaged. *Adams Express Co.* v. *Egbert*, *supra*. But proof of a reasonable certainty of success in the competition gives the right to substantial damages. *Texas & Western Tel. & Tel. Co.* v. *Mackenzie*, 81 S. W. 581 (Tex.).

INSURANCE — CONSTRUCTION AND OPERATION OF CONDITIONS — IMMEDIATE NOTICE OF LOSS. — The plaintiff was insured under a fire policy requiring him to give "immediate" notice of loss. He obtained knowledge of the loss one month, and sent notice two months, after the fire. The insurer knew of the fire as soon as the insured. *Held*, that the plaintiff may recover. *Will & Baumer Co.* v. *Rochester German Ins. Co.*, 140 N. Y. App. Div. 691.

A requirement of "immediate" notice in an insurance policy means notice within a reasonable time. *Solomon* v. *Continental Fire Ins. Co.*, 160 N. Y. 595. The word was rightly given this construction in order to make performance of the condition practicable. See *Edwards* v. *Baltimore Fire Ins. Co.*, 3 Gill (Md.) 176, 187. Notice was not given within a reasonable time in the principal case. *Burnham* v. *Royal Ins. Co.*, 75 Mo. App. 394; *Lake Geneva Ice Co.* v. *Selvage*, 36 N. Y. Misc. 212. Its result might be supported if the insurer's knowledge were relevant on the issue of the reasonableness of the time for giving notice. But it is not; for the criterion of a reasonable time for notification is the due diligence of the insured in getting and giving notice. *Niagara Fire Ins. Co.* v. *Scammon*, 100 Ill. 644. See *Ætna Life Ins. Co.* v. *Bethel*, 131 S. W. 523, 526 (Ky.). It may be urged that the purpose of the condition is accomplished when the insurer knows of the loss within the time set for notice from the insured. See *Ins. Co. of North America* v. *Brim*, 111 Ind. 281, 286. But such knowledge does not take the place of performance of the express condition. *Patrick* v. *Farmers' Ins. Co.*, 43 N. H. 621. But see *Omaha Fire Ins. Co.* v. *Dierks*, 43 Neb. 473, 482. The doctrine that conditions should be construed favorably to the insured does not sanction disregarding them entirely.

INSURANCE — CONSTRUCTION AND OPERATION OF CONDITIONS — WARRANTIES: STATUTORY RESTRICTIONS. — In an application for insurance, the applicant stated that the beneficiary was his wife, whereas she was really his mistress. This answer was made a warranty by the terms of the policy. A statute provided that all statements should be regarded as representations and should not void the policy unless material or fraudulently made. *Held*, that there can be no recovery, as the fact misrepresented is clearly material, and hence the statute does not apply. *Continental Casualty Co.* v. *Lindsay*, 69 S. E. 344 (Va.). See NOTES, p. 571.